

OCC EXHIBIT NO. \_\_\_\_\_

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Vectren     )  
Energy Delivery of Ohio, Inc. for Approval    ) Case No. 19-29-GA-ATA  
of a Tax Savings Credit Rider.                 )

**SUPPLEMENTAL DIRECT TESTIMONY  
OF  
WM. ROSS WILLIS**

**On Behalf of  
The Office of the Ohio Consumers' Counsel**  
*65 East State Street, 7th Floor  
Columbus, Ohio 43215*

**October 9, 2020**

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WRW Attachment A

1    **I.    INTRODUCTION**

2

3    ***Q1.    PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.***

4    ***A1.***    My name is Wm Ross Willis. My business address is 65 East State Street, 7<sup>th</sup> Floor,  
5            Columbus, Ohio 43215.

6

7    ***Q2.    BY WHOM ARE YOU EMPLOYED?***

8    ***A2.***    I am employed by the Office of the Ohio Consumers' Counsel ("OCC").

9

10   ***Q3.    WHAT IS YOUR CURRENT POSITION WITH OCC AND WHAT ARE YOUR***  
11       ***DUTIES?***

12   ***A3.***    I am a Senior Regulatory Analyst and Electric Industry Team Leader within the  
13            Analytical Department. My duties include performing analysis of impacts on the utility  
14            bills of residential consumers with respect to utility filings before the Public Utilities  
15            Commission of Ohio ("PUCO") and PUCO-initiated investigations. I examine utility  
16            financial and asset records to determine operating income, rate base, and the revenue  
17            requirement, on behalf of residential consumers.

18

19   ***Q4.    WOULD YOU BRIEFLY STATE YOUR EDUCATIONAL BACKGROUND?***

20   ***A4.***    I earned a Bachelor of Business Administration degree that included a major in finance  
21            and a minor in management from Ohio University in December 1983. In November  
22            1986, I attended the Academy of Military Science and received a commission in the Air

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1 National Guard. I have also attended various seminars and rate case training programs  
2 sponsored by the PUCO.

3  
4 ***Q5. PLEASE OUTLINE YOUR WORK EXPERIENCE.***

5 ***A5.*** I joined the PUCO in February 1984 as a Utility Examiner in the Utilities Department. I  
6 held several technical and managerial positions with the PUCO over my 30-plus year  
7 career. I retired from the PUCO on December 1, 2014. My last position with the PUCO  
8 was Chief, Rates Division within the Rates and Analysis Department. In that position, my  
9 duties included developing, organizing, and directing the PUCO staff during rate case  
10 investigations and other financial audits of public utility companies subject to the  
11 jurisdiction of the PUCO. The determination of revenue requirements in connection with  
12 rate case investigations was under my purview. I joined OCC in October 2015.

13  
14 My military career spans 27 honorable years of service with the Ohio National Guard. I  
15 earned the rank of Lieutenant Colonel and I am a veteran of the war in Afghanistan. I  
16 retired from the Air National Guard in March 2006.

17  
18 ***Q6. HAVE YOU PREVIOUSLY TESTIFIED IN CASES BEFORE THE PUCO?***

19 ***A6.*** Yes, the cases in which I have presented testimony before the PUCO are listed on WRW  
20 Attachment A.

1    **II.    PURPOSE OF TESTIMONY**

2

3    ***Q7.    WHAT IS THE PURPOSE OF YOUR TESTIMONY?***

4    **A7.**    The purpose of my testimony is to recommend that the PUCO reject Vectren’s proposal  
5           to charge customers, through its Tax Savings Credit Rider (Tax Credit Rider), profits on  
6           rate base associated with its Normalized Excess Deferred Income Taxes (EDIT). Instead,  
7           any proposal to seek such profits at consumer expense should be considered within the  
8           context of a base distribution rate case (and not in a single-issue rider case).

9

10   ***Q8.    WOULD YOU PLEASE PROVIDE SOME BACKGROUND REGARDING***  
11       ***VECTREN’S TAX SAVINGS CREDIT RIDER?***

12   **A8.**    Yes. In December 2017, the President signed into law the Tax Cuts and Jobs Act of 2017  
13           (“2017 Federal Tax Cut”). That law reduced the corporate income tax rate (from 35%  
14           percent to 21%) and thereby reduced the tax payments made by utilities like Vectren. The  
15           PUCO opened a Commission-Ordered Investigation to “determine the appropriate course  
16           of action to pass benefits resulting from the legislation on to ratepayers.”<sup>1</sup> The PUCO  
17           also found that “unless ordered otherwise, all Ohio rate-regulated utility companies  
18           should be directed to file applications ‘not for an increase in rates’, pursuant to R.C.  
19           4909.18, in a newly initiated proceeding, to pass along to consumers the tax savings  
20           resulting from the 2017 Federal Tax Cut.”<sup>2</sup>

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<sup>1</sup> *In re the Commission’s Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Entry at 1 (Jan. 10, 2018).

<sup>2</sup> *Id.*, Finding & Order at 18 (Oct. 24, 2018).

1 **Q9. DID VECTREN COMPLY WITH THE PUCO'S DIRECTIVE TO PASS ALONG TO**  
2 **CONSUMERS THE 2017 FEDERAL TAX CUST SAVINGS?**

3 **A9.** Yes, but Vectren is seeking an additional component that would charge consumers.  
4 Vectren filed its application on January 7, 2019.<sup>3</sup> Vectren's application fundamentally  
5 consisted of four components. Components A through D are as follows:

- 6 • Component A represents the amortization of its normalized EDIT  
7 according to the average rate assumption method (ARAM). ARAM is  
8 required by federal regulations.
- 9 • Component B represents the amortization of the non-normalized EDIT.  
10 Vectren proposed to return the non-normalized EDIT to customers over a  
11 period of six years. This type of EDIT is not subject to federal  
12 amortization requirements.
- 13 • Component C is the PUCO ordered deferred liability for the period  
14 January 1, 2018 until the period Vectren lowers its federal income tax rate  
15 from 35% to 21% through rates through its Tax Credit Rider, also known  
16 as the "Stub." Vectren proposed to return the stub over a 12-month period.
- 17 • Component D is an incremental annual return on rate base (that Vectren  
18 wants to charge to consumers) associated with the accumulated  
19 amortization of component A calculated at the pre-tax weighted average  
20 cost of capital authorized in its most recent rate case (Case No. 18-298-  
21 GA-AIR).

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<sup>3</sup> *In the matter of the application of Vectren energy delivery of ohio, for approval of a tax savings credit rider, Case No. 19-29-GA-ATA.*

1    ***Q10. IS COMPONENT D THE ISSUE THAT OCC CONTESTS IN THIS PROCEEDING?***

2    ***A10.*** Yes. After extensive negotiations, Vectren, Staff, and OCC (“the Parties”) filed a  
3           Settlement on May 28, 2020, that resolved all issues except for Component D. As part of  
4           the Settlement, the Parties agreed to carve Component D out of the Settlement and to  
5           litigate the issue before the PUCO later in 2020.<sup>4</sup> My testimony now addresses OCC’s  
6           opposition to Vectren’s Component D proposal which would cost consumers more  
7           money.

8

9    ***Q11. WOULD YOU PLEASE EXPLAIN HOW NORMALIZED EXCESS DEFERRED***  
10       ***INCOME TAXES ARE CREATED AND PAID FOR BY CUSTOMERS?***

11   ***A11.*** Yes. Normalized EDITs represent book to tax timing differences in federal income taxes  
12       (FIT) collected from customers at a 35% FIT rate that is now payable at 21%.

13

14       Investment in plant-in-service is collected from customers in rates through depreciation  
15       expense calculated on a straight-line basis. The timing difference is created when the  
16       utility files its federal income taxes and takes advantage of the accelerated methods of  
17       depreciation under federal IRS rules (that benefit utilities).

18

19       In early years of accelerated depreciation, the utility benefits by claiming a higher  
20       depreciation expense and lower taxable income. The utility realizes a temporary tax  
21       savings that will reverse in later years when the utility will pay more in federal income

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<sup>4</sup> *Settlement* at 6 (May 28, 2020).

1 taxes on that plant. These book to tax timing differences, created by the depreciation  
2 expense collected from customers through rates and the accelerated method claimed on  
3 the FIT, create Accumulated Deferred Income Taxes (ADIT).

4  
5 Vectren's ADIT balance is based on higher rates that customers paid when federal  
6 income taxes were expected to be paid at 35%. As a result of the new tax law lowering  
7 the federal income tax rate to 21%, Vectren will not need the entire ADIT balance (it  
8 received from customers) to pay its future taxes. This means that 40% of the ADIT is  
9 now excess  $((35\% - 21\%) / 35\%)$  and must be returned to customers.

10  
11 ***Q12. WHY SHOULD THE PUCO REJECT VECTREN'S PROPOSAL TO CHARGE***  
12 ***CUSTOMERS FOR AN INCREMENTAL RETURN ON RATE BASE?***

13 ***A12.*** Vectren's proposed incremental return on rate base would allow Vectren to effectively  
14 increase the rates consumers pay and to do so outside of a base rate case. That would  
15 result from Vectren's proposal to provide it a return on rate base associated with the  
16 accumulated amortization of the Normalized EDIT on an annual basis.

17  
18 ADIT is treated as a rate base reduction when establishing base rates to be charged to  
19 consumers. It is treated as such because the utility has taken full advantage of the tax  
20 savings provided by the consumers, which results in an interest free loan provided by  
21 consumers. It gets revalued when the utility files its next base rate case.



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1           The proper time to re-establish rate base is when the utility files its next base rate case.  
2           To take one portion of rate base and change its value through a single-issue rider, on an  
3           annual basis, is inappropriate. That would be revaluing rate base outside of a rate case for  
4           a single item like plant-in service every year. Under Vectren's approach, there would be  
5           no opportunity to review the utility's income statement or balance sheet to see if other  
6           expenses have decreased, or revenues have increased, or if plant has been retired. This  
7           cherry picking benefits the utility, not its consumers.

8  
9           Furthermore, there is no other utility under the jurisdiction of the PUCO that has been  
10          allowed this treatment. I urge the PUCO not to permit this now. I recommend that the  
11          PUCO act promptly and deny Vectren's component D which would cost consumers more  
12          money for no good reason.

13  
14          In these times of the health pandemic and economic crisis, consumers need money.  
15          Vectren consumers especially need money in the Dayton area where the poverty level is  
16          above 32.7 % in the city and food insecurity is above 17% in Montgomery County.

17  
18   **III. CONCLUSION**

19  
20   ***Q13. DOES THIS CONCLUDE YOUR TESTIMONY?***

21   ***A13.*** Yes. However, I reserve the right to submit additional supplemental testimony as new  
22          information becomes available or in response to positions taken by other parties.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Supplemental Direct Testimony of Wm. Ross Willis on behalf of The Office of The Ohio Consumers' Counsel* has been served upon those persons listed below via electronic service this 9th day of October 2020.

*/s/ Christopher Healey* \_\_\_\_\_  
Assistant Consumers' Counsel

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***Testimony before The Public Utilities Commission of Ohio***

*Vectren Energy Delivery of Ohio, Inc. - Case No. 19-29-GA-ATA*

*East Ohio Gas Company d/b/a Dominion Energy Ohio – Case No. 18-1908-GA-UNC, et al.*

*Ohio Gas Company – Case No. 18-1903-GA-WVR*

*Dayton Power & Light Company – Case No. 16-395-EL-SSO, et al.*

*Suburban Natural Gas – Case No. 18-1205-GA-AIR*

*Ohio Edison Company, The Cleveland Electric Illuminating Company  
and The Toledo Edison Company - Case No. 16-481-EL-UNC, et al.*

*Aqua Ohio, Inc. – Case No. 18-337-WW-SIC*

*Columbia Gas of Ohio, Inc. – Case No. 17-2202-GA-ALT*

*Ohio Power Company – Case No. 18-1007-EL-UNC*

*Dayton Power & Light Company – Case No. 15-1830-EL-AIR*

*Commission Ordered Investigation (TCJA) – Case No. 18-47-AU-COI*

*Ohio Gas Company – Case No. 17-1139-GA-AIR*

*Aqua Ohio, Inc. – Case No. 16-907-WW-AIR*

*Globe Metallurgical, Inc. - Case No. 16-737-EL-AEC*

*Ohio Power Company - Case No. 13-2385-EL-SSO*

*Aqua Ohio, Inc. – Case No. 13-2124-WW-AIR*

*Camplands Water LLC. - Case No. 13-1690-WW-AIR*

*Duke Energy Ohio, Inc. - Case No. 12-1685-GA-AIR*

*Duke Energy Ohio, Inc. - Case No. 12-1682-EL-AIR*

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*Ohio American Water Company - Case No. 11-4161-WS-AIR*

*Water and Sewer LLC. - Case No. 11-4509-ST-AIR*

*Aqua Ohio, Inc. - Case No. 09-1044-WW-AIR*

*Ohio American Water Company – Case No. 09-391-WS-AIR*

*Duke Energy Ohio, Inc. - Case No. 08-709-EL-AIR*

*Ohio Edison Company, The Cleveland Electric Illuminating Company  
and The Toledo Edison Company - Case No. 07-551-EL-AIR*

*Northeast Ohio Natural Gas Corp. - Case No. 03-2170-GA-AIR*

*Water and Sewer LLC. – Case No. 03-318-WS-AIR*

*Southeast Natural Gas Company – Case No. 01-140-GA-AEM*

*Masury Water Company - Case No. 00-713-WW-AIR*

*Akron Thermal, Limited Partnership - Case No. 00-2260-HT-AEM*

*GTE North, Inc. - Case No. 87-1307-TP-AIR*

*The Cleveland Electric Illuminating Company - Case No. 85-675-EL-AIR*

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